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UNITED NATIONS CONFERENCE ON STRADDLING
FISH STOCKS AND HIGHLY MIGRATORY FISH
STOCKS
Fourth session
New York, 15-26 August 1994

STATEMENT MADE BY THE CHAIRMAN OF THE CONFERENCE AT THE OPENING OF THE FOURTH SESSION, HELD ON 15 AUGUST 1994

1. I welcome you to the fourth session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

2. This is an important session. It is important because the Conference will have to take some critical decisions during the session. These decisions will determine not only the immediate course of this Conference, but also whether we are serious about committing ourselves to the sustainable use of the living resources of the oceans. In short, our decision will determine the future of global fishery.

3. This session is important also because we meet on the eve of the entry into force of the 1982 United Nations Convention on the Law of the Sea - an event of signal importance, as it would move the international community to a new, enhanced level of collective commitment to establish order in the oceans. A central element in this new order is the protection and preservation of the world's oceans and the sustainable use of marine resources. The Convention is a powerful creative force and the time has come for the international community to give full effect to the letter and spirit of the new order embodied in it.

4. It is well that we should recall at this time that our leaders at the Earth Summit in Rio de Janeiro admitted to the failure of the international community to properly manage the global fish resources. In Agenda 21, they identified the problems as: inadequate management of fisheries, over-utilization of some stocks, unregulated fishing, overcapitalization, excessive fleet size, vessel reflagging to escape controls, insufficient selection of gear, unreliable databases and, what I believe to be the most important of all causes, lack of sufficient cooperation between States. This Conference has been charged to find answers to these problems.

5. We must therefore start from the premise that the voluntary system of regulation of global fisheries has failed. States whose nationals are engaged in fishing, especially those in large-scale commercial fishing, whether they are coastal or distant-water fishing States, have not honoured their conservation and management responsibilities. They have failed to regulate the activities of fishermen; they have inadequate legislation in place or have failed to properly enforce existing regulations; they are responsible for encouraging and contributing to the emerging anarchy in the oceans by indulging their fishing industries with large-scale subsidies. Subsidies paid annually by major fishing States and regional economic entities exceed $50 billion - this in the face of massive overcapitalization.

6. The result of such large-scale subsidization over time has been that, in the last two decades, the size of the world's fishing fleets has increased at twice the rate of growth in the size of world marine catches. During this period, the world marine fish catch peaked at 86 million tonnes in 1989 and has not reached that level again; in fact, it has declined since, in spite of an increase in effort. The excess fleet capacity, however, has been maintained and continues to have a profound impact on the sustainability of fish resources, and indeed on the economics of the fishing industry.

7. The international community must also deal with the fundamental contradiction between the reality that the resources of the oceans are finite and the impulse to exploit as much as you can, while you can.

8. Unregulated fishing is susceptible to the greed of fishermen and to the false logic that if you leave any fish behind, someone else will catch it anyway. Open access has not worked. States ignore the fact that the right to fish in the oceans is a conditional right, whether that right relates to the exclusive economic zones or to the high seas areas. The right is accompanied by the duty to manage and conserve the resources so that the present and future generations have use of them. The right to fish, therefore, is in the nature of "stewardship" - a trust. An abuse of this trust is an anti-social act. The international community has already supplemented the Convention on the Law of the Sea in order to regulate other areas of anti-social behaviour such as drug trafficking, smuggling and transportation of industrial waste. The activities which result in irresponsible fishing practices cannot be an exception. The world expects this Conference to come up with a tangible outcome, an outcome which must result in behavioural change if the crisis in global fisheries is to be averted.

9. For such an outcome to be effective, it must contain the following key elements:

(a) It must establish minimum international standards in sufficient detail for the conservation and management of fish resources;

(b) It must ensure that the measures taken for conservation and management in the exclusive economic zones and in the adjacent high seas areas are compatible and coherent, in order to take into account the biological unity of the stocks and the supporting ecosystem;

(c) It must ensure that there is an effective mechanism for compliance and enforcement of those measures;

(d) It must provide for a globally agreed framework for regional cooperation in the field of fisheries conservation and management, consistent with the situation prevailing in each region, as is envisaged by the Convention on the Law of the Sea;

(e) It must provide for a compulsory binding dispute-settlement mechanism, consistent with the Convention on the Law of the Sea, while providing the necessary flexibility to the parties to a dispute to use the mechanism of their choice.

10. From the discussions and consultations that I have had with a large number of Conference participants, I believe that this is the kind of outcome they expect from our deliberations. That is also the expectation of the public at large. But such an outcome cannot be achieved unless it is in a form which is effective; otherwise, we are back to square one, that is, back to the failed voluntary system. The Conference must give some thought to this important matter and must come to an early decision on it.

11. Whatever the decision, we must come to a speedy, acceptable and successful conclusion to this Conference. Any other result would lead to chaos at sea. We cannot allow a multilateral solution to be substituted by unilateral actions. It will be a tremendous set-back for the new order of the oceans, an order which balances fairly the rights and duties of States, which establishes certainty in the law of the sea in general and which promotes peaceful uses of the seas and oceans and their resources.

12. Since this Conference began two years ago, we have seen the situation with regard to fisheries deteriorate. We have witnessed the destruction of certain stocks in the world's richest fishing grounds. We have seen fishing seasons closed early because of the paucity of stocks. We have witnessed tension between fishermen of different nationalities and between States in many parts of the world, and warships have once again begun to escort fishing fleets. We have seen attempts to circumvent legitimate conservation measures through reflagging, forcing the undesirable response of unilateral action.

13. We cannot blame the rapid depletion of stocks on biological factors alone. It is substantially the result of man's excesses. We cannot blame others for international tensions related to fisheries, nor can we expect the world's fishermen to behave responsibly if we, as representatives of States, have collectively failed to establish adequate and effective global norms to regulate fisheries, especially in the high seas. The situation will be much, much worse if we should fail in our endeavours. Let us then move speedily and boldly and respond constructively and effectively to the problems facing us. We have been entrusted to deal with this problem, and the international community expects no less. Let me add that I am in full sympathy with those delegations who can ill afford a prolonged and protracted negotiation. Nor should we, through delays, create conditions for further unilateral actions.

14. During the previous three sessions, we were able to identify the problems confronting the management and conservation of straddling fish stocks and highly migratory fish stocks. We have been working on the responses to these problems. The issues have been clearly identified in the negotiating text prepared by the Chairman and revised at successive meetings, to take account of the discussions and negotiations that we have had.

15. The last revision of that text was issued on the last day of the spring session. This will be the first opportunity for delegations to react to the revised negotiating text (A/CONF.164/13/Rev.1). I myself have had the opportunity to reflect on the text with the benefit of some inter-sessional consultations with some of you, and feel that the text can be improved in certain areas. Much of the content of the negotiating text is familiar to you and I sense there is broad agreement on many of the issues. Some of the outstanding issues, however, can only be satisfactorily resolved once the Conference is able to resolve the question of the form of the outcome. This is a matter which the Conference must discuss with urgency and must come to a conclusion as soon as possible, but no later than the end of this week, if we are to make progress. It will only be possible to usefully revise this text once we agree on the form in which we should package the solution to the issues that we have been considering.

16. Following my consultations with the members of the Bureau, I therefore suggest the following programme of work for this session:

(a) The plenary, in informal sessions, should begin immediately by listening to brief general comments on the revised negotiating text (A/CONF.164/13/Rev.1), if indeed there are delegations who wish to make such general comments. If possible, this phase should be concluded by this afternoon;

(b) The Conference should then proceed to review the negotiating text section by section, rather than paragraph by paragraph. It would be helpful if delegates addressed their comments to specific provisions. We should aim to conclude this process if possible by Wednesday;

(c) At the end of the first reading of the negotiating text, the Conference should address the question of the form of the outcome of its deliberations, so that any further revision of the negotiating text can take that into account. I shall undertake consultations on this matter and revert to it on Thursday;

(d) Following the first reading, the Chairman will undertake informal consultations on those matters which have been identified as areas which can be further improved, always on the understanding that the plenary will be kept informed of developments;

(e) We should aim, if possible, to have a revised text to consider at the beginning of the second week of this session.

This programme is a guide to our work and will be applied flexibly in the light of developments during the session.

17. We have an enormous amount of work before us. I am sure with your cooperation, and with the help of the very able and distinguished colleagues in the Bureau, we can accomplish much.

18. Let me first seek your approval of the programme of work that I have proposed.